

To: Forsgren, Lee[Forsgren.Lee@epa.gov]; White, Elizabeth[white.elizabeth@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Mills, Derek[Mills.Derek@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Weinstock, Larry[Weinstock.Larry@epa.gov]; Aarons, Kyle[Aarons.Kyle@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
Cc: Rementer, Nicole[rementer.nicole@epa.gov]; Miller, Kevin[Miller.Kevin@epa.gov]
From: Dubey, Susmita
Sent: Mon 1/29/2018 4:33:15 PM
Subject: RE: REMINDER: WOTUS Rule FOIA request: Signoff needed Jan 30 for 3rd proposed production

Apologies for the multiple emails. I have saved the proposed production in a new link, which I sent separately. Thanks again for your review.

Susmita Dubey
Office of General Counsel
202-564-5577

-----Original Message-----

From: Dubey, Susmita
Sent: Sunday, January 28, 2018 11:13 AM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Weinstock, Larry <Weinstock.Larry@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Rementer, Nicole <rementer.nicole@epa.gov>; Miller, Kevin <Miller.Kevin@epa.gov>
Subject: REMINDER: WOTUS Rule FOIA request: Signoff needed Jan 30 for 3rd proposed production

As a reminder, we are scheduled to produce documents on January 31 as per the status report filed with Judge Lamberth in the FOIA litigation involving the Center for Biological Diversity's request for records relating to the revision or repeal of the WOTUS Rule. We are requesting your review and clearance for the production by Tuesday Jan. 30. Background and additional information are provided in the email below. Thank you.

Susmita Dubey
Office of General Counsel
202-564-5577

-----Original Message-----

From: Dubey, Susmita
Sent: Friday, January 19, 2018 1:49 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Weinstock, Larry <Weinstock.Larry@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>

Cc: Rementer, Nicole <rementer.nicole@epa.gov>; Miller, Kevin <Miller.Kevin@epa.gov>
Subject: For your review: Third proposed document production in response to FOIA request regarding WOTUS Rule

Below for your review is a link to the third proposed document release under the Freedom of Information Act request relating to the Waters of the United States Rule. The production is scheduled for January 31, 2018. We are seeking your signoff no later than January 30, so we have time to prepare the production by the deadline we committed to meet.

Background

On March 22, 2017, EPA received a FOIA request from the Center for Biological Diversity (CBD) requesting certain records relating to the development and implementation of EO 13778, relating to the Waters of the United States Rule. On April 19, EPA received a second request from CBD requesting records relating to EPA's revision of the rule. Both requests are attached. On June 1, CBD filed a complaint in the federal district court for the District of Columbia alleging that EPA failed to respond to the first request. Subsequently, CBD amended its complaint to add allegations claiming that EPA failed to respond to the April 19 request. We will be filing an answer to the amended complaint on January 29.

On September 29, EPA filed a status report with the court describing the search it was conducting and explaining that the search conducted for both requests identified approximately 90,000 potentially responsive records. EPA further stated that it intended to review 2000 documents per month and would produce a monthly rolling release of responsive, non-privileged documents, with the first release on or about November 30. The first production of documents was delivered to CBD on November 30 and the second on December 31.

Proposed production

The proposed document release for the December 20 production is available through the Sharepoint link below. The proposed release includes 320 documents totaling over 3000 pages, and reflects a search conducted for responsive documents created between January and April 2017. Most of the documents are in a single pdf file, and there are several additional Excel files containing summaries of recommendations from outside parties which will need to be viewed separately. **Ex. 5 - Deliberative Process**

Ex. 5 - DP, AC, AWP

Ex. 5 - DP, AC, AWP

Please send me any comments via email, referencing the DOC ID (stamped on the bottom of each page). I will then be able to go into Relativity and address any concerns. And please feel free to contact me with any questions. Thank you for your time on this.

https://usepa-my.sharepoint.com/personal/rementer_nicole_epa_gov/_layouts/15/onedrive.aspx?slrid=fe1d429e%2D009c%2D5000%2Df720%2D94d884481575&id=%2Fpersonal%2Frementer%5Fnicole%5Fepa%5Fgov%2FDocuments%2FFEAT%2FOIA%20Projects%2FWOTUS%20Rule%20Review%2FLitigation%2F2017%2D005166%2C%202017%2D006341%20%28CBD%20%2D%20OEX%20%26%20OWOW%29%2FLitigation%20Productions%2FProd003%20Jan%2031%2018&FolderCTID=0x012000C0207C1DF019FF44A4BE3DDC04954E3A <https://usepa-my.sharepoint.com/personal/rementer_nicole_epa_gov/_layouts/15/onedrive.aspx?slrid=fe1d429e%2D009c%2D5000%2Df720%2D94d884481575&id=%2Fpersonal%2Frementer%5Fnicole%5Fepa%5Fgov%2FDocuments%2FFEAT%2FOIA%20Projects%2FWOTUS%20Rule%20Review%2FLitigation%2F2017%2D005166%2C%202017%2D006341%20%28CBD%20%2D%20OEX%20%26%20OWOW%29%2FLitigation%20Productions%2FProd003%20Jan%2031%2018&FolderCTID=0x012000C0207C1DF019FF44A4BE3DDC04954E3A> <https://usepa-my.sharepoint.com/personal/rementer_nicole_epa_gov/_layouts/15/onedrive.aspx?slrid=fe1d429e%2D009c%2D5000%2Df720%2D94d884481575&id=%2Fpersonal%2Frementer%5Fnicole%5Fepa%5Fgov%2FDocuments%2FFEAT%2FOIA%20Projects%2FWOTUS%20Rule%20Review%2FLitigation%2F2017%2D005166%2C%202017%2D006341%20%28CBD%20%2D%20OEX%20%26%20OWOW%29%2FLitigation%20Productions%2FProd003%20Jan%2031%2018&FolderCTID=0x012000C0207C1DF019FF44A4BE3DDC04954E3A> <https://usepa-my.sharepoint.com/personal/rementer_nicole_epa_gov/_layouts/15/onedrive.aspx?slrid=fe1d429e%2D009c%2D5000%2Df720%2D94d884481575&id=%2Fpersonal%2Frementer%5Fnicole%5Fepa%5Fgov%2FDocuments%2FFEAT%2FOIA%20Projects%2FWOTUS%20Rule%20Review%2FLitigation%2F2017%2D005166%2C%202017%2D006341%20%28CBD%20%2D%20OEX%20%26%20OWOW%29%2FLitigation%20Productions%2FProd003%20Jan%2031%2018&FolderCTID=0x012000C0207C1DF019FF44A4BE3DDC04954E3A> >

Susmita Dubey

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